



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 117<sup>th</sup> CONGRESS, SECOND SESSION

Vol. 168

WASHINGTON, MONDAY, NOVEMBER 28, 2022

No. 182

## House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, November 29, 2022, at 2 p.m.

## Senate

MONDAY, NOVEMBER 28, 2022

The Senate met at 3 p.m. and was called to order by the Honorable MAZIE K. HIRONO, a Senator from the State of Hawaii.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

God of might and miracles, You are our defense. You are our shelter and Savior. You give daily victories to those who trust You. Because of You, our Nation continues to be blessed.

We thank You for Your greatness and understanding. Thank You for Your kindness, for being slow to anger and full of constant love.

Lord, meet the needs of our Senators as they seek to serve humanity. Be near to them as they work, and guide their thoughts as they deliberate.

Show us Your compassion and hear our prayers. Protect all who love Your providential leading, and fill us with Your joy.

We pray in Your merciful Name. Amen.

### PLEDGE OF ALLEGIANCE

The Presiding Officer led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication

to the Senate from the President pro tempore (Mr. LEAHY).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, November 28, 2022.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MAZIE K. HIRONO, a Senator from the State of Hawaii, to perform the duties of the Chair.

PATRICK J. LEAHY,  
President pro tempore.

Ms. HIRONO thereupon assumed the Chair as Acting President pro tempore.

### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

### LEGISLATIVE SESSION

#### RESPECT FOR MARRIAGE ACT— Resumed

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 8404, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 8404) to repeal the Defense of Marriage Act and ensure respect for State

regulation of marriage, and for other purposes.

Pending:

Schumer (for Baldwin) amendment No. 6487, in the nature of a substitute.

Schumer amendment No. 6488 (to amendment No. 6487), to add an effective date.

Schumer amendment No. 6489 (to amendment No. 6488), to add an effective date.

Schumer motion to refer the bill to the Committee on the Judiciary, with instructions, Schumer amendment No. 6490, to add an effective date.

Schumer amendment No. 6491 (to (the instructions) amendment No. 6490), to add an effective date.

Schumer amendment No. 6492 (to amendment No. 6491), to add an effective date.

#### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

#### THANKSGIVING

Mr. SCHUMER. Madam President, first, let me welcome you and all of my colleagues back to the Senate. I hope everyone had a wonderful Thanksgiving surrounded by loved ones and a lot of good food.

For the Schumer household, the Thanksgiving holiday this year was a bittersweet occasion. It was 1 year ago this past week that we said goodbye to my father, Abe Schumer, after a very long and rich life. Not a day goes by that I don't miss him, and to celebrate my first Thanksgiving without him at the table is a reminder to never take the blessings of life for granted. But life goes on, the circles of life go on, and we also celebrated my 4-year-old grandson's birthday on the day before

• This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



Printed on recycled paper.

S6809

Thanksgiving as well. So the generations continue, but my father's memory is with us.

#### ANTI-SEMITISM

Madam President, now on anti-Semitism, before I begin the substance of my remarks on the floor, I want to say a few things about the disgusting news that came out of Mar-a-Lago over the Thanksgiving break.

Last week, it was reported that Donald Trump—the former President of the United States and Republican standard bearer—had dinner at Mar-a-Lago with a notorious bigot who fancies himself a leading thinker on the extreme edges of the hard right, embracing everything from White nationalism, to anti-Semitism, to outright Holocaust denial.

For a former President to sit down and have dinner with a high-profile anti-Semite is disgusting and dangerous. To give an anti-Semite even the smallest platform, much less an audience over dinner, is pure evil. Even assuming the former President didn't realize Mr. Fuentes was coming to Mar-a-Lago, for him to refuse to condemn Fuentes and his bigoted words after the dinner is appalling, and it is dangerous.

Now, I am glad that some of the former President's friends and allies, particularly those in the Jewish community, are pushing him to do the right thing by condemning this vicious anti-Semite since the former President does not seem to have the honor, the decency, the humanity to do it on his own.

I vociferously condemn the former President's decision to meet with this anti-Semite and urge my colleagues on both sides of the aisle to do the same.

H.R. 8404

Madam President, on respect for marriage, as the Senate gavel back into session for the final session of the 117th Congress, there is a lot we must do before the end of the calendar year. Many of these things will require Republican cooperation to get done.

First, the Senate begins this week by picking up where we left off on the Respect for Marriage Act. As a reminder, this Chamber voted 62 to 37 before Thanksgiving to move forward on this bill, with 12 Republicans in favor. The Senate is scheduled to hold the next procedural vote later this afternoon, and in the meantime, both sides are continuing working together on an agreement to move this bill quickly through the Chamber. I hope we can get it done with all due speed because millions of Americans deserve equal justice under the law and peace of mind, knowing their right to marry the person they love is protected.

Taking a step back, it is notable that the Senate is having this debate to begin with. A decade ago, it would have strained all our imaginations to envision both sides talking about protecting the rights of same-sex married couples. America does move forward, although sometimes in difficult ways.

Sometimes it is two steps forward, one step back, but today is a big step forward.

We all know that, for all the progress we have made on same-sex marriage, the rights of all married couples will never truly be safe without the proper protections under Federal law, and that is why the Respect for Marriage Act is necessary.

As I have said many times, this legislation is deeply personal to many of us in this Chamber, myself included. Passing this bill is our chance to send a message to Americans everywhere: No matter who you are or whom you love, you, too, deserve dignity and equal treatment under the law. That is about as American an ideal as it comes, and so I hope the Senate can finish the work we have started and pass the Respect for Marriage Act as soon as possible.

#### GOVERNMENT FUNDING

Madam President, now on government funding, once the Senate passes Respect for Marriage, there is a lot on the to-do list that we must cross off before the end of the calendar year. Chief among them, of course, is working together to fund the government by December 16. Failure to act by then will result in a pointless and painful government shutdown right as the holiday season kicks into high gear.

The best option for avoiding a shutdown, of course, is for Republicans to work with us on an omnibus, ensuring the Federal Government is fully prepared to serve the public in the next fiscal year. A continuing resolution, on the other hand, is far less desirable for many reasons. A CR would cause grave harm to our troops in uniform at a time when national defense is critical. With Russian aggression in Europe and China's aggression in the Indo-Pacific, the last thing we can afford right now is to turn government funding into another political tit-for-tat. Government funding should rise above politics when the well-being of our troops and our national defense are on the line.

Just this morning, Defense Secretary Lloyd Austin wrote to congressional leaders explaining why a CR is the wrong solution for national defense. It will not only cost our military billions every month; it will also freeze new investments in critical military infrastructure. It will mean many staffing and personnel decisions will be put on hold.

When we see some of the advances some of our competitors—China and Russia—have made in military equipment, we can't afford to sit still. That is what a CR would do. We would just sit still as others gain on us. As China continues to dial up its saber-rattling over Taiwan, a CR will doom the Department of Defense's hopes of beginning new strategic initiatives in the Indo-Pacific region. To quote Secretary Austin, "We can't outcompete China with our hands tied behind our back three, four, five or six months of every fiscal year." He is absolutely

right. I hope my Republican colleagues are listening.

The best gift Congress can give our troops in uniform is certainty—certainty of resources, certainty of purpose, and certainty that Congress will act to give our military servicemembers the tools they need to keep us safe. The only way that will happen is by Congress working together to pass an omnibus bill in the coming weeks.

#### NATIONAL DEFENSE AUTHORIZATION ACT

Madam President, now on the NDAA, as the U.S. Senate works on passing government funding, we must also work on a bipartisan basis to pass our national defense bill too. For more than six decades, Congress has faithfully passed the NDAA on a bipartisan, bicameral basis, and I expect this year will be no different. But today I want to highlight one of the many reasons that passing the NDAA is especially important: We need to stay tough on the Chinese Government and its actions.

Last month, I introduced an amendment to the NDAA with Senator CORNYN that will prohibit the U.S. Government from doing business with companies that rely on certain Chinese chipmakers that the Pentagon has labeled Chinese Government military contractors. National security leaders have weighed in in support of this amendment because they know it keeps our country safe.

To this day, many Chinese companies have well-known ties to the Chinese Communist Party and continue to sell microchips to U.S. businesses that have contracts with the Federal Government. That poses serious risks to Americans' privacy and national security.

The main idea here is simple: If American business wants the Federal Government to buy their products or services, they shouldn't be using the kinds of Chinese-made chips that, because of Chinese Government involvement, put our national security at risk. We need our government and our economy to rely on chips made right here in America—something my amendment, along with Senator CORNYN, would encourage.

Many on both sides rightfully like to talk about staying tough on the Chinese Government. Our amendment would do just that. I urge my colleagues to support my amendment and urge all of us to work quickly to pass the NDAA when the time comes next month.

I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### RECOGNITION OF THE MINORITY LEADER

The Republican leader is recognized.

## INFLATION

Mr. MCCONNELL. Madam President, last week, our Nation celebrated one of our great, distinctly American holidays. In President Reagan's Thanksgiving proclamation in 1982, he wrote eloquently of the "divine plan [that] placed this great continent here between the oceans to be found by people from every corner of the Earth who had a special love of faith and freedom."

On Thursday, millions of families sat down to catch up with loved ones, enjoy food and fellowship, and reflect on the incredible blessing it is to get to call the United States of America our home, and we kept in our prayers the many brave servicemembers and first responders who were missing at their own families' holiday tables this year in order to keep the rest of us safe and protected at ours.

This year, for too many families, Thanksgiving also brought added stress and anxiety: 2 years of ruinous inflation that have pushed up the costs of everything from food to travel, to housing, to home heating and electricity.

In January 2021, with inflation well within a normal range, President Biden and this all-Democratic Party government took power, talking a big game about "rebuild[ing] the middle class." Instead, they promptly set out eroding away the ground from right underneath middle-class families' feet, taking a match to trillions of dollars and igniting the worst inflation in 40 years.

On President Biden's watch, the average American household is paying an extra \$110 a month on food, an extra \$111 on housing, \$270 more on transportation, and \$147 more on energy. That is more than \$750 in hidden Democratic inflation taxes for the average household—thousands of extra dollars per family, per year, because Washington Democrats jumped headlong into party-line reckless spending that every expert and every Republican warned would hurt our country.

All in all, prices have soared by 13.9 percent since President Biden put his hand on the Bible. Thanks to his party's reckless spending, inflation is the highest it has been since the fallout of the Carter administration.

So it is no wonder this was a painfully costly Thanksgiving. Staples from turkey to potatoes, to green beans have seen double-digit price increases in just the past year—inflation literally on top of inflation.

This runaway inflation has been hitting families hard everywhere. In the State of Georgia, for example, local food assistance organizations reported skyrocketing demand heading into the holidays. The CEO of the Atlanta Community Food Bank said: "We're basically back to the same level of demand we were at during the height"—the height—"of the pandemic."

There is a charitable organization saying that Democrats' party-line policies have created an economic environment that is on par with the worst of the COVID shutdown.

On the Democrats' watch, rising housing costs in Georgia outpaced the already big jump in the nationwide average. One relief agency says requests for emergency rent, utility, and food assistance have jumped 40 percent this year.

Two years of one-party Democratic control in Washington have been a disaster for working families in Georgia, and their two Senators haven't just failed to stop the damage. They have helped cause it and cheered it on.

Georgia's Senate delegation of two Democratic Senators has been a lock-step rubberstamp along party lines for every bit of reckless liberal spending and painful tax hikes. Just when working families in Georgia needed checks and balances, what they got were reckless rubberstamps.

Earlier this month, after the American people voted to break up Democrats' one-party government, President Biden insisted defiantly: "I'm not going to change the direction."

It has been 2 years since the Senate Democratic leader said that if he got Georgia's two Senate seats, he would change America. Well, they certainly have done that. On party lines, Democrats' squandered a promising economic comeback and spent us into staggering inflation. And now President Biden says he has learned nothing and will change nothing.

The Democrats have shown the American people what they will do with power. But in the United States of America, the power ultimately lies with the people, and in a little over a week, the people of Georgia will have the ability to make their choice—between a check and balance or a rubberstamp.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## BUSINESS BEFORE THE SENATE

Mr. DURBIN. Madam President, I hope my colleagues had a good time with their families over Thanksgiving. I sure did. The flu intervened in some of our visitations, but we were able to join by Zoom and by telephone and had a great time in that holiday. I am looking forward to even better times for the Christmas holiday that is coming up.

Before we can leave for Christmas, we have some work to do. There is a priority for this Congress as it ends this calendar year and fiscal year. We have many challenges ahead of us.

The leader came to the floor and talked to us about the Omnibus appropriations bill, which we know has to be done. We don't want the government shutting down.

We have the National Defense Authorization Act, which is critically im-

portant for the defense of our Nation and for our continued presence in places like Ukraine, to provide assistance to the people there who are fighting for their freedom and literally fighting Vladimir Putin for their lives.

We also have issues before us such as the Respect for Marriage Act, which confirms, I hope, on a bipartisan basis in the Senate, that we stand behind the Obergefell decision, that we believe people should be able to make their own decisions about the people they love and marry on a civil basis. And I believe that should pass—and I hope it does pass—before we leave for Christmas.

## DREAM ACT

Madam President, there is another issue that is of urgent priority that is personal to me. It deals with the legal limbo that has been created for hundreds of thousands of Dreamers and DACA recipients who are now uncertain of their future.

These recipients are immigrants who were brought to the United States as children. Some were toddlers and infants; others, kids in their teens, brought here by their families. They didn't make the decision to come, but they made a life when they came. They attended school. They grew up in America. They stood up in the classroom every morning, as all kids do across this country, pledging allegiance to that flag, believing it was their flag and their country. But that is not how the law sees it.

Some of those, just babies when they arrived, grew up here and were educated in school. They went to school with our kids and our grandkids. Their parents attended church with our families.

Responding to the need to take care of these young people and give them a path to citizenship—a chance to become a permanent part of America, legally in this country—20 years ago, I introduced the DREAM Act. We came up with the term "DREAM Act" between myself and Senator Orrin Hatch, a Republican conservative from Utah, who was my original cosponsor of the bill.

It was a bipartisan bill. Here was DURBIN from the State of Illinois and Hatch from Utah, agreeing on a bill that was so important that we argued between ourselves who would be the lead sponsor. I deferred to Senator HATCH the first time we introduced it because the Republicans were in the majority and I thought it gave us a better chance to pass it.

As time passed, Senator Hatch lost his interest in the issue and withdrew as a sponsor. But over the years we have had the sponsorship of many Republicans who believe, as I do, that these young Dreamers deserve a chance to prove themselves and to earn their way to citizenship in the United States.

We have had a few conservative Republican cosponsors, but we needed many more. We needed 60 votes to pass

the bill on the floor of the U.S. Senate. We had several attempts at it—I think almost five—where we brought the measure of the DREAM Act to the floor. And we made it clear: You had to have come to the United States as a child; you must have lived here without any substantial legal or criminal record; and you must be given a chance to have a citizenship opportunity in your life. That was basically the bill.

We brought it to the floor five different times. We had a majority each time. But in the Senate, a majority is not enough. As you know, it takes 60 votes. We fell short each of those times.

I remember one Saturday—it was a lameduck session at the end of the year—and we decided to make a try for the DREAM Act. Harry Reid was the Democratic leader in the Senate. He said: I will give you a chance for a vote. So we had that vote on a Saturday morning. The whole Gallery was filled with young Dreamers. They decided to come in their caps and gowns from their graduation ceremonies. So they brought those caps and gowns out of storage and wore them on the floor to prove that they were a valuable addition to the future of the United States. They were so excited to think that this will be their chance.

Well, sadly, we had a majority but not the supermajority that the Senate requires. I met with them afterward, and there were a lot of tears that were shed by them—and by me—as they thought about what it meant. They were so uncertain about where they were going to go and what their future was going to be.

I decided to try a different approach. If we couldn't pass the DREAM Act in the Senate, maybe, just maybe, my co-sponsor in the DREAM Act, the former Illinois Senator Barack Obama, could find a way as President of the United States to help. And thank the Lord, he did. He came up with DACA. This was the approach that said to these young people: Here is what I can give you. If you will stand up and apply each year to be protected in the United States, we will give you a chance. If we check your background and everything is fine, we will give you 2 years at a time to stay here and live in the United States as Dreamers, be able to work legally, and no fear of deportation. He issued that Executive order. I remember it well. The day was August 15, 2012, 10 years ago—more than 10 years ago. Congressman Luis Guterrez of Chicago and I decided that we would have a signup occasion at Navy Pier, a well-known landmark in the city of Chicago. We didn't know how many young people were going to show up to sign up for DACA. We brought together a few immigration attorneys who volunteered their time to help them fill out the forms.

And we waited.

We started hearing this rumbling of people who were interested. I remember speaking to Congressman Gutierrez

and wondering: Are we going to have 100, 200? The estimate started going up just wildly as people started saying there will be many more than you could imagine. It turned out there were thousands. Ten thousand applicants showed up at Navy Pier on that day. They overwhelmed all the volunteer attorneys that we had. Some of them had been waiting outside through the night to make sure they had their chance to sign up for DACA. In the end, some 780,000—maybe even more—across the United States answered President Obama's call and were protected by DACA. What they have done with their lives is nothing short of remarkable.

Let me tell you about one who I think is just so amazing. This is a young lady who was in the line set up in 2012, August of 2012. She was one of the first Dreamers to receive the protection of DACA—a young woman from Chicago. Her name is Karen Villagomez. Karen's parents brought her to America from Mexico when she was just 2 years old—same age my mother was when her family came to the United States. I know the Presiding Officer is an immigrant herself and proud of her family story, the courage your mother showed especially bringing you and your family to the United States. Karen was 2 years old when she was brought into the United States from Mexico. She didn't really discover that she was undocumented until she applied for college. She was accepted. She grew up in Chicago and had been accepted to college at the University of Rochester in New York. But because she was undocumented and DACA, she, unfortunately, didn't qualify for any Federal assistance to help her through school. That meant working jobs, her parents helping her, putting together all the money they could so that she could go to college. She wasn't eligible for 10 cents in Federal financial aid, but she wasn't going to be stopped.

Karen was a freshman at the University of Rochester of New York when I first heard of her. It was spring break of her freshman year in college. She was hoping to fly home to Chicago to surprise her family. Instead, she was arrested and detained by ICE. One lawyer told her she probably had about 4 months before she was going to be deported back to Mexico. Karen and her family called my office. There was a lot of emotion in that phone conversation. My staff and I reached out to the Federal Agencies and said: Don't deport her. Give her a chance. You won't regret it. She has no background that suggests she is any danger to this country, but she has so much promise and determination. Give her a chance.

Well, they decided to give us a reprieve, a short-term suspension of the deportation. Karen went on with one reprieve after another, never knowing whether she was going to be deported before she could even finish college. But she finally did. Then she came back to Chicago. She was accepted at

Northwestern University Law School—law school. With DACA, she was able to work as a paralegal, then as a counsel for the city of Chicago. Graduating law school, she became a clerk for a Federal judge in Chicago. She got married.

Three weeks ago, on election day, at long last, she was sworn in, naturalized as an American citizen. I was there to see her take the oath of citizenship. You know what she was going to do as soon as the ceremony ended? Walk across the street, register to vote, and vote as an American citizen for the first time on the day that she was naturalized. There wasn't a dry eye in that court chamber as we all celebrated this wonderful journey of this amazing young woman. And, incidentally, there is a baby on the way. She and her husband are so proud they are both part of this country and its future.

More than 830,000 young people just like her have been able to live safely and work in America because of DACA. But there is an uncertainty as to what is going to happen in the future. Last month, the Fifth Circuit Federal Court remanded a case to the lower court to determine whether DACA would remain the law of the land. It is still under attack.

Here is what it gets down to: Unless Congress acts in the next 3 weeks to protect DACA recipients, DACA could end as soon as next year. An average of 1,000 DACA recipients would lose their jobs and their legal right to work every single week in healthcare and in education, sectors of our economy that are so essential to our growth. DACA recipients are doing the work. They turn out to be the nurses, sometimes the doctors, as well as teachers, engineers, policemen, firefighters. And they are going to be deported if we don't come to their rescue and finally make DACA legal once and for all.

Does anyone think for one minute America would be better off if we started deporting doctors and nurses and teachers who are now protected by DACA or men and women who are risking their lives in the military or our police and firefighters? The answer is clearly no.

You know, right before Thanksgiving, a few hundred Dreamers flew to Washington. I think the Presiding Officer said you met with them. They met with me and were telling me what is at stake here.

One young man, in particular—what an amazing story. Because of DACA, he was able to graduate from college with an engineering degree. He decided he would start his own company since he had that opportunity. Now he has started several companies and is paying—he said last year, he paid \$180,000 in Federal taxes. And I said to the group he assembled there, there are many large corporations in America that don't pay as much in taxes as this young man, this DACA protectee, was able to pay. It is an indication of the creativity, determination, and the quality of these young people. We have

to give them a chance to be part of our future.

Some Republicans have cosponsored the Dream Act. Senator LINDSEY GRAHAM, my friend, former chairman of the Senate Committee on the Judiciary, is currently a lead sponsor with me. I have also worked with Senator GRAHAM and other Republican Senators over the years to deal with comprehensive immigration reform.

I have had conversations with a number of Republican and Democratic Senators who understand the urgency of dealing with this issue. I am not going to name names here or in the hallway, but I will tell you, conversations are taking place, and I am encouraged by them. I will join them and provide whatever resources I can or, if I can help by standing to the side, I will do that too. The goal is to make sure these DACA recipients have a future. We need 10 Republican Senators to join all the Democrats to get that done—just 10. We can break the filibuster, get the supermajority we need under the Senate rules.

I have heard many Republican colleagues say they won't help DACA recipients or even talk about immigration until we stop this so-called flood of immigrants and asylum seekers at the southern border. Look, every Democrat in the Senate agrees we need an orderly process at our border, but simply closing the border to families fleeing violence is not a simple or practical or worthwhile situation. That is why Biden, as President, is adding capacity and building better systems at the border. We need to do more, and we should do it together on a bipartisan basis.

Today, there are over 23,000 Customs and Border Protection agents working at the southwest border, and ICE has surged over 1,300 personnel to stop human smuggling networks. The administration is also building new migrant processing facilities, working on a system that allows meritorious asylum claims to be processed sooner.

But we can't fix these problems alone. We can't do it all in 3 weeks. Many of my Republican colleagues have tried to blame the families who are coming across the border for fentanyl. The overwhelming majority of fentanyl that enters this country isn't being smuggled in by undocumented immigrants. It is coming in through legal ports of entry by people who are authorized to enter the United States. Many of these people are U.S. citizens. I am not making excuses for them, but for goodness' sake, let's be honest about the source of the problem.

Let me give you a few numbers that tell the story. This fiscal year, Customs and Border Patrol seized six times more illegal drugs from authorized travelers at land ports of entry than they did from migrants crossing the border—six times—and nearly seven times more fentanyl was seized at land ports of entry than at the border.

I want to stop the deadly flow of fentanyl. It hits my State and all across America. You won't do it by turning away asylum seekers and separating parents and children. You do it scanning every passenger and commercial vehicle and all freight traffic crossing the border. We have the technology to do it. Let's get it done on a bipartisan basis.

President Biden has signed the omnibus funding legislation and infrastructure bill, which we talked about before. It included resources to meet the screening goal, which ought to be our basic starting point of this conversation. Sadly, a majority of Republican Senators voted against both of these bills, but I beg them to come back and join us again and see if there is some common ground. We can fix America's immigration system in a way that honors our values and does make us safer.

We need to focus on reality. We need less political posturing and more compromise and we need to start in that lameduck session to protect the Dreamers for their future and our own.

I yield the floor.

The PRESIDING OFFICER (Ms. DUCKWORTH). The Senator from Oregon.

H.R. 8404

Mr. WYDEN. Madam President, a little later today, the Senate is going to vote on the Respect for Marriage Act.

This vote is an affirmation that the U.S. Senate will stand up and protect the rights of all Americans to marry the person they love. Although this is about codifying rights that same-sex couples already enjoy, this is an important step in a long-running battle for equality.

During my 1996 campaign for the Senate, I ran on the proposition that there is a fundamental right to privacy in America, and I summed it up by saying "If you don't like gay marriage, don't get one."

So I became the first Member of the Senate to openly support marriage equality. Soon afterwards, there was a debate on a truly bad law, the Defense of Marriage Act, which I opposed for the same reasons. It was a breach of our country's fundamental right to privacy. Now the Senate has a chance to rectify that wrong and repeal it.

I am always going to go to the mat to defend the right to privacy in America. The bottom line is that protecting somebody else's rights doesn't take anything away from your own rights. Our country is indisputably stronger when everyone's rights are protected.

Some Members of this body have questioned why we need to pass this bill when marriage equality is the law of the land. The answer is pretty straightforward. The Dobbs ruling, which overturned *Roe v. Wade*, showed that the Senate cannot take any modern legal precedent for granted.

With the possible exception of *Brown v. Board*, no precedent is safe as long as Clarence Thomas and Sam Alito are openly calling for the Court to revisit major rulings. It is not just Justice

Thomas and Justice Alito making these arguments in public. These days, many Republicans have openly talked about their belief that the Court ruled incorrectly in some of the most significant cases dealing with the expansion and recognition of individual rights in America: The *Obergefell* ruling, marriage equality; the *Griswold v. Connecticut* ruling, the rights of women to use contraception; even the *Loving v. Virginia* ruling, the right to interracial marriage. Some Members of Congress have called all those other legal precedents into question.

These backward debates now unfold in Congress, in courts, and in statehouses. The backdrop behind them is frightening, raising levels of hatred and bile spewed at LGBTQ Americans every day of the week.

The far right is now targeting gay and trans Americans in an effort to scare everybody else into taking away their rights. There is no question that when leaders participate in ratcheting up antigay rhetoric, it spills out into the real world across the country.

The community of Colorado Springs is still mourning the lives lost in a mass shooting at a gay nightclub a few days before Thanksgiving. Five people were killed. More than a dozen others were hospitalized with gunshot wounds.

If not for the actions of a few brave individuals, including a military veteran, the death toll would have been much higher.

Passing the Respect for Marriage Act is not going to end the hateful rhetoric and violence for good, but the Senate has an opportunity and an obligation to declare with this vote that hate is wrong, that we will stand up and defend the vulnerable, that we will protect the individual rights of all Americans from a far-right Supreme Court majority determined to turn the clock back by decades.

There just is no place for hate or intolerance in our great country. So today I am proud to be able to cast a vote in a bit for individual rights, for freedom, for privacy, and for equality.

I want to thank all the Members of this body who have worked for months to bring the bill to the floor with bipartisan support, and I hope that the Senate will be able to continue this progress with colleagues on both sides in the months and years ahead.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CORNYN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. Madam President, as the Senate knows, this week, we will be voting on a bill called the Respect for Marriage Act. Tonight, we will vote on a procedural matter to move that legislation along.

Supporters of this legislation have framed it as a way to protect the rights of same-sex couples to get married in any State in America. To be clear, that is already the law of the land. It has been so since 2015 when the Supreme Court ruled in the Obergefell case, and there is no reason to believe that this decision is in any imminent jeopardy.

Some colleagues have tried to claim that because of the Supreme Court's decision in the Dobbs case, which overruled *Roe v. Wade*, that somehow that has opened the floodgates of the Supreme Court to overrule all of the precedent that it disagrees with. Well, the Justices, in their concurring opinions in Dobbs, made clear that is not true. For example, they mentioned landmark precedents like *Griswold v. Connecticut*, *Loving v. Virginia*, and, notably, *Obergefell v. Hodges*.

One Justice wrote:

I emphasize what the Court today states: Overruling *Roe* does not mean the overruling of those precedents, and does not threaten or cast doubt on those precedents.

I don't know what more the Supreme Court can say to indicate that Obergefell is not threatened by this Court anytime soon. So I am left with the conclusion that this idea that we have to pass this legislation in order to preserve what has already been recognized by the Supreme Court as a constitutional right, that this is based on, frankly, a scare tactic. Nevertheless, some of our colleagues claim this legislation is absolutely necessary.

But while this bill does not move the needle on same-sex marriage, this legislation will raise serious issues for religious liberty. We all know that many Americans hold sincere beliefs—religious beliefs—objecting to same-sex marriage. Obergefell did not place any new requirement on those individuals or their religious institutions. The Obergefell decision coexists today with other Supreme Court precedents, like *Masterpiece Cakeshop v. Fulton v. City of Philadelphia* or *Burwell v. Hobby Lobby*.

Each of these decisions recognized that religious liberties shall and must be protected as required by our Constitution; namely, the equal protection clause and the free exercise clause.

For example, Obergefell doesn't compel Catholic priests or Jewish rabbis to conduct marriage ceremonies for same-sex couples, but it certainly doesn't subject religious organizations or faith-based institutions or even private citizens to lawsuits for exercising their deeply-held religious objections to same-sex marriage. If the Respect for Marriage Act becomes law as it is currently proposed, without amendment, that would change. Unlike Obergefell, this legislation expressly empowers private litigants to sue religious institutions, faith-based organizations, and private parties who oppose or have sincere, religious-held beliefs against same-sex marriage.

Think back to the *Masterpiece Cakeshop* lawsuit. The owner of a bak-

ery in Colorado declined the request to make a wedding cake for a same-sex couple because it didn't align with his religious beliefs. If this legislation passes, we can expect similar lawsuits by secular warriors targeting people, from cake bakers, to florists, to website creators, to venue owners, or just about any other small business that doesn't bend a knee to their world view.

But it is not just individuals with deeply held religious beliefs who will have a target placed on their backs; it is also religious institutions themselves. I am not talking about churches or synagogues or mosques; I am talking about many of the faith-based social service agencies, nongovernmental organizations, and charities that are supported by people of faith as part of their mission. Well, this legislation would permit a private lawsuit against let's say an institution of higher learning, like a major university, or your child's preschool or Mother's Day Out. It includes religious charities and nonprofits that carry out incredibly meaningful and important work, and it includes anyone acting "under [the] color of State law."

Now, that is an interesting choice of the scope of this right of a private right of action—anyone acting under the color of State law. This is a very broad term that comes directly from the text of the bill, and it is not clear entirely who would be subject to this provision.

If a person receives a professional license from their State to serve as a lawyer, an accountant, a bartender, a realtor, or a barber, are they acting under color of State law? I think that is a plausible argument. If a nonprofit receives public funds to perform a service on behalf of the government, are they acting under color of State law? It is not clear, and it needs to be clear.

The range of people who can be sued will only be limited by lawyers' imaginations. Trial lawyers and the Biden Department of Justice could have a field day. Individuals and organizations that are trying to do good works consistent with their faith would be forced to spend a small fortune defending themselves in court, just as the owner of *Masterpiece Cakeshop* did for 10 years.

This legislation could open the door for the government to take serious action against religious institutions for adhering to their sincerely held religious beliefs. The Federal Government could deny grants for research to colleges and universities like Baylor University, Southern Methodist University or Texas Christian University in my State. Faith-based groups and nongovernmental organizations could be barred from working with the Federal Government to take care of the tens of thousands of unaccompanied children who are coming across our border as part of the current border crisis. Cities and States could deny foster care permits and licenses to religious organiza-

tions that do an immeasurable amount of good, including Catholic Charities, the Little Sisters of the Poor, and Buckner International. The Internal Revenue Service could seek to revoke the tax-exempt status of organizations that fail to comply with this new secular mandate.

Now, lest we think that is a fever dream or a conspiracy theory, let me just take you back to the Obergefell argument. Justice Alito asked the Solicitor General if an institution that opposed same-sex marriage could lose its tax-exempt status. The Solicitor General said: "It's certainly going to be an issue." He was correct, and now the issue is front and center.

Now, I believe that the sponsors of this legislation sincerely believe that the consequences I am describing will not follow. They may believe, in good faith, that they have protected the free exercise of religion and religious liberties. But I don't believe they have been successful in doing that. That is why I believe that the amendments that have been proposed by Senator RUBIO, Senator LEE, and Senator LANKFORD should be voted on to make clear what I think the sponsors of this legislation intended to do but weren't quite successful in clearly accomplishing.

Well, just remember the IRS has virtually unlimited authority to target religious schools, nonprofits, and organizations by revoking their tax-exempt status, leaving them to the dead end of ruinous and years-consuming litigation.

Now, this isn't, like I said, a far-fetched conspiracy or an unrealistic doomsday scenario. We have seen what a politically motivated Internal Revenue Service can do.

Perhaps we all remember the IRS targeting controversy under the Obama administration. Under the leadership of Lois Lerner, bureaucrats subjected conservative groups to a different level of scrutiny, when examining their tax-exempt status, from left-leaning groups. Employees of the IRS actually developed a spreadsheet that became known as the "Be on the Lookout" list or simply the BOLO list. If the name of the political group included terms like "tea party" or "patriot," it was subjected to a different level of scrutiny.

These IRS bureaucrats delayed the approval of these organizations' tax-exempt status and requested completely unnecessary information. It asked some applicants to disclose the names of their donors, as well as the amounts of each donation, which is constitutionally suspect. A pro-life group was even asked to provide the percentage of time that the group spent on prayer groups compared with their other activities.

Well, this IRS targeting scandal happened about a decade ago, but, since then, the IRS has been given even more power and more authority. The most recent reckless tax-and-spending bill, the so-called Inflation Reduction Act,

gave the Internal Revenue Service an additional \$80 billion and 87,000 new IRS agents. This army of new agents would have the capability to turn its attention on every church school and organization that did not recognize same-sex marriage because of their sincerely held religious beliefs.

So you have to wonder: Who will be on the BOLO list next? Given everything we have seen and the experience we have had in this area, I can't say I have much confidence in how this will be handled.

So, to summarize, this legislation does not move the needle in terms of the rights of same-sex couples. They can already marry in every State in the country, and this bill doesn't change that. What it will do is force religious organizations to make an impossible choice: Abandon your beliefs or face the wrath of the U.S. Government.

So let me just repeat what I said a moment ago. I believe the proponents of this legislation thought they were protecting and preserving the religious liberties of people with sincerely held religious beliefs. But when they include a private right-of-action for someone acting under "color of State law," it refers to any public act, any right or claim, and, as I said, you can interpret "color of state law" to cover everything from professional licensing to teaching certificates, to building permits, to food and beverage licenses.

So, I think, if the proponents of this legislation really believe that protecting religious liberty should be our goal, the best way to accomplish that is to allow votes on these amendments by Senator LEE, Senator RUBIO, and Senator LANKFORD, who provided an extra clear assurance that this legislation does not constitute a national policy endorsing a specific view of marriage.

I know it may sound like a simple clarification, but it could mean the difference between faith-based nonprofits ending up in the crosshairs of the IRS or some private-party lawsuit claiming they are operating under color of State law and the ability to maintain their tax-exempt status or carry on the important good work that many organizations do in our communities all across the country.

So if that indeed is the purpose of our colleagues—to try to protect those religious organizations, those people of faith who are doing good works that we want to encourage and we want to support—then I believe that we can accomplish their goal by passing the amendments that have been proposed by Senator LEE, Senator RUBIO, and Senator LANKFORD. If that is their goal, they shouldn't have any objection to this clarification.

But we simply can't stand by and allow this legislation—or any legislation, for that matter—to foot stomp the First Amendment rights of people of faith. Unless this bill is amended, it will invite a wave of lawsuits against

churches, synagogues, mosques, and religious nonprofits, simply because they are living in accordance with their faith.

One other thing I should point out that was mentioned by the U.S. Conference of Catholic Bishops is that, in the one area that I would call it a safe harbor to protect religious liberty—I think it is 6(b) in the bill that has been offered—the protection of religious liberty that, again, I think, our colleagues in good faith intended to provide, is limited to those "whose principal purpose is the study, practice, or advancement of religion." So that clearly would involve things like church services or religious observations at a mosque or synagogue. But would it cover a church's daycare facility that provides for the children whose parents attend their church? Would it cover universities like I mentioned earlier—Baylor University, a Baptist university, Southern Methodist University, Texas Christian University—and the work they do? How about Catholic Charities, which is one of the principal providers of humanitarian services at the border, which resulted due to the border crisis that we are experiencing.

None of those would be protected, I would argue, under the limitation in section 6(b), and this was actually pointed out by the U.S. Conference of Catholic Bishops. I think they are right.

But again, if the goal of the bill is to preserve religious liberty, I think the bill needs to be amended. Religious liberty is the cornerstone of our democracy. It is explicitly protected by the U.S. Constitution, and we cannot allow it to be trampled on.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mrs. BLACKBURN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KING). Without objection, it is so ordered.

#### MILITARY READINESS

Mrs. BLACKBURN. Mr. President, for the past 2 years, the COVID pandemic dominated every news cycle, and if the mainstream media is to be believed, it was the leading topic of conversation at every dinner table, whether it was Washington or Nashville or San Francisco. As the months wore on, it became glaringly obvious that, while the pandemic was a concern, people were less worried about the virus itself and more worried about how the Democrats were using it to justify one power grab after another.

Even in the face of catastrophic inflation, the employment crisis, the failure of public education, and the slow creep of lethal opioids into rural communities, the Democrats chose power over progress every single time

and, in doing so, abandoned their duty to the American people.

And now, as this year draws to a close, my Democratic colleagues have declared that now it is time for everybody to just move on, move on from the pandemic. When Dr. Fauci appeared for a final press conference before his conveniently timed retirement, the White House made sure he wouldn't have to answer any questions on the origins of COVID-19.

The talking heads in the mainstream media have spun the harm done to students by virtual schooling as a tragedy rather than the completely predictable effects of forced isolation on our precious children, and the White House remains determined to blame inflation and shortages in the energy market on Vladimir Putin.

They want us to ignore their own self-proclaimed war on American energy independence. I suppose they think that if they just erase the mess that they have made from the daily talking points, the American people will just forget about it and move on. I hate to spoil their ending, but the American people are not ready for that. They want some answers. They will never ever forget the damage that these policies have done to their families and to their communities.

Now, the left tried their best to frame the debates over lockdowns and mask mandates and vaccine mandates as conspiracy fodder, but we all found out, no, it was not; it was personal, especially after it became clear that control was the Democrats' end game. Yes, control over you, over your life, over your children, over their education, over student loans. Control is what they want.

Now, the science changed but the narrative never did, and Tennesseans have noticed this. They have caught on to this. The ongoing fight over the military's vaccine mandate is particularly raw for Tennesseans because it is proof that the Democrats are willing to jeopardize our national security to score points against political rivals. This desire for power and control is in direct opposition to the Federal Government's sworn mission to provide for the defense of our Nation. This isn't a matter of opinion; it is a fact, confirmed by President Biden's chosen military commanders.

This year, the number of new service-members joining the ranks has hit an alltime low; so did academy applications for our Nation's prestigious military academies. The Army fell 15,000 soldiers short of their recruitment goal for 2022. The other services and the National Guard are also struggling.

The Pentagon doesn't expect the situation to improve even for the next few years. The Army predicts they will be down 21,000 troops in 2023, and the National Guard says they are going to lose 14,000 soldiers by the end of 2024.

The strongest, fastest, and most lethal fighting force on the planet is moving backward. Meanwhile, the new

axis of evil, they are marching forward. We know for a fact that Tehran is sending drones and military equipment to Moscow to support Putin's war in Ukraine. North Korea is conducting ballistic missile tests that threaten South Korean sovereignty. And the Chinese Communist Party is doing the exact opposite of what the Pentagon is doing: They are focusing on readiness and building up their military.

In June, they christened their first-ever aircraft carrier to be completely designed and developed in China. Their goal is to increase their fleet by 40 percent by the end of 2040 and quadruple their nuclear stockpile by the end of the decade. This is all consistent with Beijing's broader goal of becoming a military superpower.

They are focused on global domination. They are focused on readiness. They are focused on defeating us. Meanwhile, our Pentagon is focused on a vaccine mandate. The strong men in control of Russia, China, Iran, and North Korea—that axis of evil—are notorious for their aggression, and none of them have bothered to keep their hatred of the United States of America a secret.

The wolves are at the door, Mr. President, yet here we are, debating a military vaccine mandate that has zero—zero—basis in science or common sense. It will gut the ranks of the military and make us more vulnerable to the rising threat from the new axis of evil.

This isn't just my opinion; it is another fact confirmed by the people President Biden trusts to lead our Nation's military. The Army confirmed in a November 4 press release that the vaccine mandate has already separated 1,796 Active-Duty soldiers from their service.

Bear in mind, they raised their hand; they took an oath. They did this because they want to serve, protect, defend. And what has happened? What has happened to that service, to that loyalty? Look at what has happened. They are getting a slap across the face. As I said, 1,796 were shown the door because they would not take a COVID shot. They wouldn't take a shot. For the soldiers who remain, the Army has approved less than 4 percent of medical exemptions and just over 1 percent of religious exemptions. The Guard has only approved 15 percent of the medical exemptions and—get this—0.0047 percent of religious exemptions. And the Reserves, they have approved little more than 5 percent of their medical exemptions and 0.0044 percent of religious exemptions.

Leader SCHUMER left Washington for the Thanksgiving holiday without acknowledging this manpower crisis in our military and without offering a clear answer on when we will take up the fiscal year 2023 National Defense Authorization Act.

Now that we are back in session, I would hope that he has a plan to stop dangling this bill over the heads of our

servicemembers and their families. But while we are waiting, I would like to offer a small improvement to what is already a very strong and bipartisan piece of legislation.

Mr. President, as you know, the Senate Armed Services Committee finished their work on this bill back in June. When we were debating the NDAA in the Armed Services Committee, I introduced two amendments that would have protected servicemembers from the arbitrary effects of the vaccine mandate. The first would prohibit the involuntary separation of any servicemember for refusing the COVID-19 shot until each service achieves its authorized end strength—good common sense. It is not saying you can't implement your mandate, just saying you can't do it until you have reached your goal, your recruitment and your retention goals.

The Second Amendment would make sure that members of the National Guard or Reserve maintain access to both pay and benefits while their request for a medical or religious accommodation is pending.

My Democratic colleagues on the Armed Services Committee killed these amendments, but I do hope they will change their mind and support them now that they have had the opportunity to hear from folks back home, to hear from our military, our Guard, our Reserves. I hope they will give this another look; but if they don't, they will have another opportunity to fix this mistake.

I have combined the amendments into a single bill called the Preserving the Readiness of Our Armed Forces Act, and I would be happy to add each and every one of them as a cosponsor. As we begin what I am sure will be a mad dash to the end of the year, I want to encourage my Democratic colleagues to keep preserving readiness at the front of their mind.

When the Pentagon first revealed this vaccine mandate, veterans, military experts, and Active-Duty servicemembers up and down the ranks told us exactly what would happen if the Biden administration went through with this. And do you know what? They were accurate in their assessment. Because of the Democratic actions, this White House's actions, they have fired thousands of servicemembers, and tens of thousands more are in jeopardy. Bear in mind, these are people who have chosen to serve. This chaos has prompted thousands of potential soldiers, sailors, airmen, and marines to decide against entering the service, and who knows how many will choose not to enter the National Guard.

The Biden administration is digging in their heels at the worst possible time. The new axis of evil—they are on the rise, and they are counting on the rest of the world to remain complacent.

Over the past few years, each of these nations has been exposed on the inter-

national stage as factories of repression, violence, and misery, but in the aftermath, nothing changed.

Just last week, the CCP reminded us how little value they place on human life. Ten people in Xinjiang burned to death when their apartment building caught fire. The firefighters couldn't get to them in time because of the barricades CCP officials had constructed to enforce their zero-COVID policy.

Protesters took to the streets and forced the international press to pay attention. In response, the CCP brutalized journalists, censored videos shot the night of the fire, and claimed that the residents who died were too weak to save themselves.

I would remind my colleagues that these are the same officials who claimed that the Uighur Muslims are comfortable in their concentration camps, that the Tibetans welcomed ethnic cleansing, and that firing missiles at Taiwan is part of normal military operations. Exposure will not stop them. Outrage will not give them pause because they are on a quest for global domination, and they are not going to take a timeout because the Democrats in control of our government decided to prioritize a shot over our Nation's security.

Let that sink in. They are going full steam ahead. They are increasing their military rights. They are building their navy. They are working to develop new missiles. And we are focused on removing military members because they will not take a shot. By the way, you can get vaccinated and boosted, and it doesn't keep you from getting COVID.

Unfortunately, our adversaries have decided to take advantage of weak leaders in the White House and in Congress and to exploit our vulnerabilities until we force them to stop.

Our military is not the only tool we use to keep this country safe, but it certainly has the power to be the most decisive, and I cannot think of anything more foolish than to sabotage it while the enemy watches and says: Look at America's priority.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. SCHUMER. Mr. President, I move to proceed to executive session to consider Calendar No. 1148.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The clerk will report the nomination.